

DRAFT

Governance of the Ecosystem Program

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The best means of securing environmental improvements in the Bay-Delta system is to endow an environmental trustee with the financial means, legal rights, authorities, and discretion needed to achieve the CALFED ecosystem goals. Many stakeholders support such an approach for a variety of reasons, many of which are listed below. This approach is also consistent with CALFED's determination that the ecosystem restoration program will not, in general, use regulatory mechanisms to secure new environmental improvements. At the same time, no regulatory authorities of existing agencies to protect the ecosystem will be weakened or altered. The creation of such an environmental trustee would:

- o Increase accountability. The trustee would be a single purpose organization whose success or failure would be judged solely by the success or failure of the ecosystem program.
- o Simplify decisionmaking. The trustee would be in a position to create and implement an integrated restoration program to meet the CALFED ecosystem goals.
- o Encourage environmental efficiency. Accountability will drive the trustee to invest its limited resources in highly leveraged restoration actions and studies.
- o Assure Flexibility. Many assets of the trustee would be fungible and could be reallocated as needed in light of improved science and changed biological conditions.
- o Expand participation. A trustee institution could be structured to allow significant participation from affected stakeholders and the public in the decisionmaking process. It could also be responsible for coordination with other restoration programs.

The trustee institution would play four, and perhaps five, roles within the CALFED Program:

1. Manager. Responsible for planning, executing, and funding ecosystem restoration actions. Responsible for directing ecosystem monitoring, ecosystem research, and for revising ecosystem restoration action plans adaptively.
2. Rights Holder. Hold rights to land, water, conveyance, and storage on behalf of the environment.
3. Operations. Have some degree of influence over water project operations on a "no net loss" basis to minimize diversion impacts.
4. Overall Governance Structure. Report back to CALFED oversight structure. Interface with other CALFED programs. Report back to NMFS, FWS, CDFG, EPA and other regulatory agencies on the status of implementation.
5. Regulatory Reliability. The possibility that the trustee might provide some (as yet undetermined) degree of regulatory stability to water users has been discussed.

The trustee institution would be endowed with the following resources, tools and authorities:

- o An initial endowment of money, water, storage, conveyance, pumping, and property rights. The water endowment would be based upon and built from a well defined baseline.
- o An assured income stream.
- o The right to manipulate funds and property to implement the ERP. That is, the trustee would be able to sell or trade its rights, purchase or lease new rights, spend its funds, entail future income through bonds, etc., in order to implement the ERP and to optimize environmental conditions.

The Trustee would be governed by a Board of Directors. The Board would hire an executive director to manage the institution. A public advisory committee would provide advice to the Board and a scientific review panel would provide peer review. The legal form of the trustee institution, the makeup of the Board, and the selection process for the Board have yet to be determined. However, the Board should include broad participation from both state and federal agencies, and stakeholder interests. A number of structural alternatives are under discussion, including:

- o A state agency with federal participation on the Board.
- o A state/federal agency.
- o A public corporation